

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Hanmi Broadcasting, Inc.

Licensee of Station WPBC(AM), Decatur,
Georgia

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File No. EB-09-IH-1134
NAL/Acct. No. 201132080021
FRN No. 0014126098
Facility ID No. 36144

ORDER

Adopted: March 25, 2011

Released: March 28, 2011

By the Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and Hanmi Broadcasting, Inc. (“Hanmi” or “Licensee”), licensee of Station WPBC(AM), Decatur, Georgia, (“Station”). The Consent Decree terminates an investigation by the Bureau against Hanmi for possible violations of section 310(d) of the Communications Act of 1934, as amended,¹ and sections 73.3526, 73.3540, 73.3613, and 73.3615 of the Commission’s Rules,² regarding allegations that it transferred control of the Station without Commission authorization, failed to provide access to the Station’s public inspection file, failed to maintain required documents in the Station’s public inspection file, and failed to file ownership reports and certain contracts with the Commission.

2. The Bureau and Hanmi have negotiated the terms of the Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Hanmi possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Communications Act of 1934, as amended,³ and sections 0.111 and 0.311 of the Commission’s Rules,⁴ the Consent Decree attached to this Order **IS ADOPTED**.

¹ See 47 U.S.C. § 310(d).

² See 47 C.F.R. §§ 73.3526 (local public inspection file of commercial stations), 73.3540 (application for voluntary assignment or transfer of control), 73.3613 (filing of contracts), 73.3615 (ownership reports).

³ See 47 U.S.C. § 154(i), 503(b).

⁴ See 47 C.F.R. §§ 0.111, 0.311.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that the third-party complaint against Hanmi Broadcasting, Inc. before the Enforcement Bureau related to the above-captioned-investigation as of the date of this Consent Decree **IS DISMISSED**.

8. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first-class, certified mail, return receipt requested, to Alan Moskowitz Esq., 10845 Tuckahoe Way, North Potomac, Maryland 20878.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief, Enforcement Bureau

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CONSENT DECREE

1. The Enforcement Bureau (“Bureau”) and Hanmi Broadcasting, Inc. (“Hanmi” or “Licensee”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s Investigation into whether Hanmi violated section 310(d) of the Communications Act of 1934, as amended,¹ and sections 73.3526, 73.3540, 73.3613, and 73.3615 of the Commission’s Rules,² by transferring control of Station WPBC(AM), Decatur, Georgia (the “Station”), without Commission authorization, failing to make available during regular business hours the Station’s public inspection file, failing to maintain required documents in the Station’s public inspection file, and failing to file ownership reports and certain contracts with the Commission.

I. DEFINITIONS

2. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151, *et seq.*
 - (b) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
 - (c) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
 - (d) “Complaint” means a third-party complaint received by, or in the possession of, the Commission or Bureau alleging violations of section 310(d) of the Communications Act of 1934, as amended,³ and sections 73.3526, 73.3540, 73.3613 and 73.3615 of the Commission’s Rules.⁴
 - (e) “Compliance Plan” means the program described at paragraph 10 of this Consent Decree.
 - (f) “Compliance Officer” means the individual designated in paragraph 10.a. of this Consent Decree as the person responsible for administration of the Compliance Plan.

¹ See 47 U.S.C. § 310(d) (requiring Commission authorization to transfer or assign a station license).

² See 47 C.F.R. §§ 73.3526 (local public inspection file of commercial stations), 73.3540 (application for voluntary assignment or transfer of control), 73.3613 (filing of contracts), 73.3615 (ownership reports).

³ See 47 U.S.C. § 310(d).

⁴ See 47 C.F.R. §§ 73.3526, 73.3540, 73.3613, 73.3615.

- (g) “Effective Date” means the date on which the Commission releases the Adopting Order.
- (h) “Investigation” means the Bureau’s investigation of the Complaint⁵ alleging that Hanmi violated various requirements of the Act and Commission Rules by transferring control of the Station without Commission authorization, failing to provide access to the Station’s public inspection file, failing to maintain required documents in the Station’s public inspection file, and failing to file ownership reports and certain contracts with the Commission.⁶
- (i) “Hanmi” means Hanmi Broadcasting Inc., and its predecessors-in-interest and successors-in-interest.
- (j) “Order” or “Adopting Order” means an Order of the Commission adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (k) “Parties” means Hanmi and the Bureau, and each is a “Party.”
- (l) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (m) “Station” means Station WPBC(AM), Decatur, Georgia, Facility ID No. 36144.

II. BACKGROUND

3. Section 310(d) of the Act and section 73.3540 of the Rules prohibit a licensee from transferring control of a Commission license without prior authorization.⁷ Section 73.3526 of the Rules requires a Station to make available during regular business hours its public inspection file and to maintain certain documents within that file.⁸ Sections 73.3613 and 73.3615 of the Rules require the filing of certain contracts and ownership reports with the Commission.⁹

4. On June 22, 2009, the Commission received a Complaint against Hanmi regarding the operations of Station WPBC(AM), Decatur, Georgia. Specifically, the Complaint alleged that Hanmi engaged in possible unauthorized transfers of control; violated public inspection file requirements, including failure to grant public access and to maintain required documents in the Station’s public inspection file; and failed to file ownership reports and certain contracts with the Commission.¹⁰ Thereafter, on March 10, 2010, the Bureau issued a letter of inquiry about these allegations.¹¹ In response, the Licensee admitted that its actions may have violated the Rules as alleged in the Complaint.¹² The Licensee explained, in arguing for consideration of mitigating circumstances, that it was suffering

⁵ See Letter from Complainant to the Federal Communications Commission, dated June 22, 2010.

⁶ See 47 U.S.C. § 310(d); 47 C.F.R. §§ 73.3526, 73.3540, 73.3613, 73.3615.

⁷ See 47 U.S.C. § 310(d); 47 C.F.R. § 73.3540.

⁸ See 47 C.F.R. § 73.3526.

⁹ See 47 C.F.R. §§ 73.3613, 73.3615.

¹⁰ See *supra* note 5.

¹¹ See Letter from Anjali K. Singh, Acting Assistant Division Chief, to Hanmi Broadcasting Inc., dated March 11, 2010.

¹² See Response from Hanmi Broadcasting, Inc., to Gary Oshinsky, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, dated April 2, 2010.

from financial distress. The Licensee submitted appropriate financial documentation supporting its explanation of these circumstances. Additionally, the Licensee represented it has a history of compliance with the Rules, but noted that its present ability to comply with applicable regulations has been greatly hindered by its principal's language difficulties and financial constraints in hiring and retaining counsel.¹³ The Licensee requested that the Bureau consider the foregoing circumstances.

5. The Bureau and Hanmi acknowledge that any proceedings that might result from the Investigation and/or the Complaint would be time-consuming and would require substantial expenditure of public and private resources. In order to conserve such resources, and to ensure continued compliance by the Licensee with the above described laws, the Bureau and Hanmi are entering into this Consent Decree in consideration of the mutual commitments made herein.

III. TERMS OF AGREEMENT

6. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

7. **Jurisdiction.** Hanmi agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

8. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the date on which the FCC releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other Order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau Order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Commission Order.

9. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate its Investigation and dismiss the Complaint. In consideration for the termination of said Investigation and dismissal of the Complaint, Hanmi agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation through the Effective Date of the Consent Decree, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Hanmi concerning the matters that were the subject of the Investigation. The Bureau also agrees that it will not use the facts developed in this Investigation through the Effective Date of this Consent Decree, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Hanmi with respect to Hanmi's basic qualifications, including its character qualifications, to be a Commission licensee or hold Commission authorizations.

10. **Compliance Plan.** For purposes of settling the matters set forth herein, Hanmi agrees to maintain a Compliance Plan related to future compliance with the above described sections of the Act and the Rules, as well as Commission Orders. The Compliance Plan shall include, at a minimum, the following components:

a. **Compliance Officer.** Within thirty (30) days of the Effective Date, Hanmi shall designate an individual to serve as its Compliance Officer, who shall be responsible for

¹³ The Licensee's counsel represents that the Licensee's President, Chang Soo Kim, is a native Korean speaker, with limited English-speaking capability.

administering the Compliance Plan. In discharging such duties, the Compliance Officer, if not an FCC regulatory counsel, shall consult with and be assisted by outside FCC regulatory counsel.

b. **Training.** Within thirty (30) days of the Effective Date, all Hanmi employees, officers, and directors shall be trained on general FCC requirements for license ownership, which shall include specific training on the requirements provided in section 310(d) of the Act and in sections 73.3526, 73.3540, 73.3613, and 73.3615 of the Rules.¹⁴ Such training shall be provided to all new employees, officers, and directors within thirty (30) days of the start of their employment or position. With the assistance of outside regulatory counsel, Hanmi shall monitor and review any future changes to these requirements, and ensure that all employees, officers, and directors are provided current information, including any materials, and training.

11. **Compliance Reports.** Hanmi shall file Compliance Reports with the Commission ninety (90) days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and upon expiration of this Consent Decree, three (3) years after the Effective Date. Each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of the Licensee, stating that the Compliance Officer has personal knowledge that the Licensee: (i) has established operating procedures intended to ensure compliance with the terms and conditions of this Consent Decree and with section 310(d) of the Act¹⁵ and sections 73.3526, 73.3540, 73.3613, and 73.3615 of the Commission's Rules,¹⁶ together with an accompanying statement explaining the basis for the Compliance Officer's certification; (ii) has been utilizing those procedures since the previous Compliance Report was submitted; and (iii) is not aware of any instances of non-compliance. The certification must comply with section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.¹⁷ If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of the Licensee, shall provide the Commission with a detailed explanation of: (i) any instances of non-compliance with this Consent Decree or with section 310(d) of the Act¹⁸ and sections 73.3526, 73.3540, 73.3613, and 73.3615 of the Rules;¹⁹ and (ii) the steps that the Licensee has taken or will take to remedy each instance of non-compliance and ensure future compliance, and the schedule on which proposed remedial actions will be taken. All compliance reports shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, S.W., Washington, D.C. 20554, with a copy submitted electronically to Anjali Singh at Anjali.Singh@fcc.gov and to Gary Oshinsky at Gary.Oshinsky@fcc.gov.

12. **Termination Date.** Unless stated otherwise, the requirements of this Consent Decree will expire three (3) years from the Effective Date of this agreement.

13. **Voluntary Contribution.** Hanmi agrees that it will make a voluntary contribution to the United States Treasury in the amount of twenty-two thousand (\$22,000) in five (5) installments of \$4,400. The first payment will be made within thirty (30) days after the Effective Date of the Adopting Order, with subsequent payments made at four month intervals thereafter, on: August 15, 2011; December 15, 2011; April 15, 2012; and August 15, 2012. Each payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the

¹⁴ See *supra* note 6 & paragraph 3.

¹⁵ See 47 U.S.C. § 310(d).

¹⁶ See 47 C.F.R. §§ 73.3526, 73.3540, 73.3613, 73.3615.

¹⁷ See 47 C.F.R. § 1.16.

¹⁸ See 47 U.S.C. § 310(d).

¹⁹ See 47 C.F.R. §§ 73.3526, 73.3540, 73.3613, 73.3615.

NAL/Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payments by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 270000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Hanmi will also send electronic notification on the date said payment is made to Terry.Cavanaugh@fcc.gov, Anjali.Singh@fcc.gov, and Gary.Oshinsky@fcc.gov.

14. **Waivers.** Hanmi waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order adopting this Consent Decree, provided the Commission issues an Order adopting the Consent Decree without change, addition, modification, or deletion. Hanmi shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Hanmi nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Hanmi shall waive any statutory right to a trial *de novo*. Hanmi hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501, *et seq.*, relating to the matters addressed in this Consent Decree.

15. **Admission of Liability.** Hanmi admits, solely for the purpose of this Consent Decree and for Commission civil enforcement purposes and in express reliance on the provisions of paragraph 9 herein, that its actions relative to violations referred to in this Consent Decree, were violative of Commission regulations and requirements in force at the time at issue. Notwithstanding any other provision of this Consent Decree, it is expressly agreed and understood that if this Consent Decree, or paragraph 9 hereof, or both, are breached by the Bureau, or are invalidated or modified to Hanmi’s prejudice by the Commission, Bureau, or any court, then and in that event the provisions of the immediately-preceding sentence shall be of no force or effect whatever, and Hanmi shall not, by virtue of that sentence or any other provision of this Consent Decree, be deemed to have made any admission concerning any material violation.

16. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

17. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which Hanmi does not expressly consent) that provision will be superseded by such Commission rule or Order.

18. **Successors and Assigns.** Hanmi agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

19. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties.

20. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

21. **Paragraph Headings**. The headings of the Paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

22. **Authorized Representative**. Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

23. **Counterparts**. This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

P. Michele Ellison
Chief
Enforcement Bureau

Date

Chang S. Kim
President
Hanmi Broadcasting, Inc.

Date